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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 24th July 2014

No. 5894—IR(ID)-44/2012-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 3rd July 2014 in Industrial Dispute Case No. 22/2012 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Balasore Gas Agency, Sahid Park, Motiganj, Dist. Balasore and its Workman Shri Sudhir Mohanty & Shri Damodar Nayak was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 22 OF 2012

Dated the 3rd July, 2014

From :

Shri Saroj Kumar Sahoo, O.S.J.S. (Jui nor Branch),
Presiding Officer, Labour Court,
Bhubaneswar.

Between :

Shri Srikrishna Acharya, Proprietor, . . . First Party—Management
M/s Balasore Gas Agency,
Sahid Park, Market Building,
Cinema Bazar, Post Motiganj,
Balasore-756001.

And

Shri Damodar Nayak,
Shri Sudhir Mohanty, . . . Second Party—Workmen
At/P.O. Kuligaon, P.S. Khantapada,
Dist. Balasore-756001.

Appearances :

None	..	For the First Party—Management
Shri Damodar Nayak, Shri Sudhir Mohanty.	..	For the Second Party—Workmen

AWARD

This is a case instituted on the reference made by the Government of Odisha vide its Order No. 4930—IR(ID) -44/12-LESl., dated the 26th June, 2012, in exercise of Powers conferred under sub-section 5 of Section 12, read with Clause (d) of Section 1 of Section 10 of the I.D. Act, 1947 (14 of 1947), the reference is as follows :

"Whether the action of the Management of M/s Balasore Gas Agency in terminating of the services of Shri Damodar Nayak and Shri Sudhir Mohanty with effect from the 3rd May 2008 is legal and/or justified ? If not, what relief the workmen are entitled to ?"

3. On receipt of the reference, notice was issued to the second party workmen for filing of their claim statement. Accordingly, they have filed there claim statement. Thereafter notice was issued to the first party management to file its written statement. In spite of notice issued to the first party management through Regd. Post with A.D. by Letter No. 1268, dated the 14th August 2012, he did not turn up to file his written statement. The first party management was set *ex parte* due to his non-appearance in spite of notice.

4. On the 29th January 2013, both the workmen Shri Damodar Nayak and Shri Sudhir Mohanty filed their affidavit evidence. In his affidavit evidence, the second party workmen Shri Damodar Nayak deposed that he was appointed as Gas Delivery Workman by the first party mangement on the 10th October 1984 but on 3-5-2008, the management refused for his employment, without assigning any reason thereto. At Paragraph-6 of his affidavit evidence, he further deposed that the conciliation proceeding before D.L.O., Balasore was also failed due to non-co-operation of the first party management. It is also mentioned in Paragraph 8 of his affidavit evidence that when the workmen along with other workmen organized a Trade Union, the first party management was annnoyed and refused his employment. In his affidavit evidence, the workmen Shri Sudhir Mohanty who has been examined W.W. No.2 fully corroborates the evidence of W.W. No.1. From the report of the Conciliation Officer-*cum*-Assistant Labour Officer, Balasore, dated the 24th December 2011, it also appears that the first party management admitted the allegations of refusal of employment including payment of Rs. 5,000 towards wages *ex gratia* to each workmen.

5. In spite of notice, the first party management did not turn up to contest the case. The evidence of 2nd party workmen are on oath. There is no material before the Court that first party management has complied Section 25-F of the I.D. Act, 1947 before refusing employment to the second party workmen. Hence, the action, i.e. refusal of service of the second party workmen by the first party management is illegal and not justified.

6. As the refusal of service to the second party workmen by the first party management, since the 3rd May 2008 is illegal, they are entitled for reinstatement with full back wages from the 3rd May 2008.

7. Hence, Ordered.

The first party management is directed to reinstate the second party workmen and pay their back wages since the 3rd May 2008 within a period one month from the date of publication of this Award in the Official Gazette.

The reference is answered accordingly.

Dictated and corrected by me.

S. K. SAHOO
3-7-2014
Presiding Officer
Labour Court
Bhubaneswar

S. K. SAHOO
3-7-2014
Presiding Officer
Labour Court
Bhubaneswar

By order of the Governor
M. NAYAK
Under-Secretary to Government